

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>520 W. Colfax Avenue Denver, CO 80204</p> <hr/> <p>PEOPLE OF THE STATE OF COLORADO,</p> <p>v.</p> <p>MARTIN LOBATOS, a.k.a. MARTIN LOBATOS- REALZOLA DOB: 8/26/1971, and</p> <p>BELEN LUNA LOBATOS DOB: 12/6/1973,</p> <p>Defendants.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>JOHN W. SUTHERS, Attorney General DAVID R. COSSON, Senior Assistant Attorney General* 1525 Sherman Street, 5th Floor Denver, CO 80203 (303) 866-5546 Registration Number: 22589 *Counsel of Record</p>	<p>Case No.: 2010 CR 01</p> <p>Ctrm.:</p>
<p>COLORADO STATE GRAND JURY INDICTMENT: 2010-2011 SESSION</p>	

Of the 2010-2011 term of the Denver District Court in the year 2011, the 2010-2011 Colorado State Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following:

COUNT ONE

Theft-\$20,000 or More, §18-4-401(1)(a) and (2)(d), C.R.S. (F-3)

On or about and between October 21, 2009 and May 16, 2011, in the State of Colorado, **Martin Lobatos and Belen Lobatos** did unlawfully, feloniously, knowingly, and by deceit, take a thing of value, to-wit: Total Temporary Disability cash benefit payments, with the value of twenty thousand dollars (\$20,000) or more from Pinnacol Assurance, with the intent to permanently deprive Pinnacol Assurance of the thing of value, in violation of section 18-4-401 (1)(a) and (2)(d), C.R.S. as amended, THEFT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F3)

COUNT NUMBER TWO

Theft-\$20,000 or More, §18-4-401(1)(b) and (2)(d), C.R.S. (F-3)

On or about and between October 21, 2009 and May 13, 2011, in the State of Colorado, **Martin Lobatos and Belen Lobatos** did unlawfully, feloniously, knowingly, and by deceit, take a thing of value, to-wit: medical benefits with the value of twenty thousand dollars (\$20,000) or more from Pinnacol Assurance, and knowingly used, concealed or abandoned the thing of value in such manner as to deprive Pinnacol Assurance permanently of its use or benefit, in violation of section 18-4-401 (1)(b) and (2)(d), C.R.S. as amended, THEFT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F3)

COUNT NUMBER THREE

Theft-\$20,000 or More, §18-4-401(1)(a) and (2)(d), C.R.S. (F-3)

On or about and between September 24, 2010 and May 10, 2011, in the State of Colorado, **Martin Lobatos and Belen Lobatos** did unlawfully, feloniously, knowingly, and by deceit, take a thing of value, to-wit: attendant care cash payments, with the value of twenty thousand dollars (\$20,000) or more from Pinnacol Assurance, with the intent to permanently deprive Pinnacol Assurance of the thing of value, in violation of section 18-4-401 (1)(a) and (2)(d), C.R.S. as amended, THEFT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F3)

The offenses alleged in Counts One, Two and Three were committed in the following manner:

1. **Martin Lobatos** sustained a work-related injury on September 29, 2008, while employed as a roofer. He was taken to the emergency department of the Vail Valley Medical Center after he fell 6-10 feet from a ladder. His injuries were diagnosed as a wrist fracture, two broken ribs and a closed head injury consisting of a small abrasion and swelling. It was reported that **Mr. Lobatos** had hit his face when he landed on some pavement, and had a “questionable loss of consciousness” for two seconds (Vail Valley Medical Center ED Note). Initially, **Mr. Lobatos’** main complaints were pain to both wrists and to the front of his head. A CT scan was performed on his head and neck with negative results. **Mr. Lobatos** was discharged the same day he was admitted. Later, an MRI of the brain was performed on October 28, 2008, and the results were also negative.

2. **Martin Lobatos** filed a workers’ compensation claim on September 30, 2008, with Pinnacol Assurance (Pinnacol). Pinnacol is located in the City and County of Denver, State of Colorado. **Mr. Lobatos** was unable to return to work immediately due to his injuries and received lost wage benefits, referred to as Temporary Total Disability payments (TTD) from Pinnacol, beginning on September 30, 2008. The TTD payments amounted to \$386 per week. To receive TTD payments on a continuing basis, one must be physically unable to return to work due to on-going effects from a work-related injury.

3. After receiving treatment, **Martin Lobatos** was returned to work full-time on October 21, 2008, at which time TTD payments ceased. **Mr. Lobatos** then began to complain of headaches, dizziness, vertigo and blurred vision, in addition to his wrist and rib pain. These symptoms were treated primarily with medication and multiple sessions of physical therapy.

4. In November of 2008 and into 2009, **Martin Lobatos** reported significant improvement with the vertigo and dizziness symptoms. At the same time, the fractures related to the wrist and ribs had healed. As a result, on April 7, 2009, **Mr. Lobatos’** treating physician, Dr. Michael Ladwig, determined that **Mr. Lobatos** would no longer benefit from further medical treatment and decided he had reached “Maximum Medical Improvement” (MMI). Dr. Ladwig also found that **Mr. Lobatos** had no permanent impairment from his injuries and assigned a “zero-percent impairment rating.”

5. Shortly after being placed at MMI, **Martin Lobatos** was terminated by his employer. **Mr. Lobatos** did not return to work again for any employer after that date, up to the present.

6. **Martin Lobatos** and Pinnacol began settlement negotiations after the MMI finding, and **Mr. Lobatos** made a demand for a \$50,000 settlement amount. Pinnacol offered **Mr. Lobatos** a \$20,000 settlement, which **Mr. Lobatos**, through his workers' compensation attorney, indicated he would accept. Ultimately, **Mr. Lobatos** did not agree to a settlement and decided to undergo a medical exam in order to reverse the finding by Dr. Ladwig that he had reached maximum medical improvement. On September 8, 2009, **Mr. Lobatos** underwent a Division Independent Medical Exam (DIME).

7. During the DIME, **Martin Lobatos** began complaining of new symptoms, including continued dizziness, increased memory loss, difficulty recognizing his own children, inability to use stairs without assistance, face numbness, and pain caused by eating and chewing, bright lights and changes in the weather. **Mr. Lobatos** was diagnosed with post-concussive syndrome, and the DIME physician found that **Mr. Lobatos** was not at MMI.

8. Beginning in October of 2009, just a month-and-a-half after the DIME, **Mr. Lobatos'** wife, **Belen Lobatos**, began attending medical appointments with her husband. On October 21st, 2009, **Martin and Belen Lobatos** saw Dr. Edwin Healey, a physician they selected, for a medical exam. **Belen Lobatos** told Dr. Healey that her husband had undergone a personality change and was often withdrawn. She stated that he could not drive a vehicle and had problems with memory, concentration and attention. **Martin Lobatos** told Dr. Healey that he was having suicide and death thoughts, could not do any housework or yard work and had chronic headaches. He stated that he could not drive a vehicle and that he was experiencing depression and vertigo. He could not identify what building he was in, and indicated that he did not know what day, month or season it was. Dr. Healey found that **Mr. Lobatos** was "totally and permanently disabled," and assigned a 65% whole-person impairment rating.

9. Between the date of the medical exam with Dr. Healey on October 21, 2009, and May of 2011, **Martin and Belen Lobatos** attended nearly 50 medical appointments with approximately 13 different medical providers. During some of these appointments, before **Martin Lobatos** eventually presented himself as being in a catatonic state, he told providers that he could not remember his family, that he could not drive, and that he was depressed and frequently had thoughts of suicide. He said he wanted to hurt himself and experiences pain all day. He told doctors that he could not do any normal activities, including dressing himself, performing daily hygiene or feeding himself. **Mr. Lobatos** talked about wanting to stab himself with a knife and about seeing shadows and hearing people screaming on his way to medical appointments, among other statements.

10. Beginning around March of 2010, **Martin Lobatos** continuously presented to medical providers as being in a full catatonic state. Symptoms of catatonia include a stupor-like condition, immobility and unresponsiveness. **Martin Lobatos** was completely unable to converse with physicians during his appointments. He invariably presented at medical appointments as requiring help walking and going to the bathroom, and as being pained by light or other external stimuli. He habitually wore dark sunglasses to appointments and made frequent guttural sounds and random body movements. At several medical appointments, he was unable to perform simple physical motion or eye tests at the request of his doctors. These behaviors were observed by various medical providers over the course of 14 months.

11. **Belen Lobatos** accompanied her husband to every medical appointment beginning on October 21, 2009. She frequently assisted him in walking into and out of appointments, and, after March of 2010, when **Martin Lobatos** presented as being catatonic and unable to communicate, she actively expressed opinions and made statements to doctors and others about her husband's physical and mental condition. In addition to many other statements, **Belen Lobatos** consistently and regularly represented to medical personnel that her husband was completely unable to feed, bathe or clothe himself, and that he could not use the bathroom without her assistance. She said that he had to use diapers and that she had to change them regularly. She indicated that **Mr. Lobatos** often cried and was depressed, and said that he was unable to interact with, and did not recognize, any of his three children or other family members. She represented that her husband was completely dependant on her in all respects.

12. On or about December 12, 2009, after **Martin Lobatos and Belen Lobatos** began representing to workers' compensation physicians that **Martin Lobatos** was suffering debilitating physical and mental conditions, in addition to having eye problems and being unable to drive, **Martin Lobatos** went to a Colorado Department of Motor Vehicles (DMV) office and completed a written exam and an eye exam. **Mr. Lobatos** represented that he had no physical conditions that would prohibit him from driving such as dizziness. He passed both exams.

13. Shortly after the DMV visit, **Martin and Belen Lobatos** attended a medical appointment with Dr. Jonathan Sollender on December 28, 2009. At that appointment, **Martin Lobatos** indicated that he did not know what date it was, his age or the date he was injured. He wore dark sunglasses and indicated that the light in the exam room caused him significant dizziness. He had to lie down at times during the exam and reported he could not return to work. **Belen Lobatos** told Dr. Sollender that her husband wakes up scared many times during the night and is in constant, severe pain.

14. Approximately one week after his visit to Dr. Sollender, on January 4, 2010, **Martin Lobatos** again went alone to the DMV, this time to take a driving test. As before, **Mr. Lobatos** indicated that he did not experience dizziness or any other physical impairment that would prevent him from driving. **Mr. Lobatos** passed the driving test, with an above-average score and was issued a new valid Colorado drivers license.

15. Because his catatonia was not resolving, and he was experiencing alleged hallucinations, **Martin Lobatos** was admitted to Porter Adventist Hospital on March 22, 2010. He was uncommunicative the first four days at the hospital and would not eat except when **Belen Lobatos** fed him. **Mrs. Lobatos** frequently stayed at the hospital after regular visiting hours and provided for **Mr. Lobatos'** needs. After seeing some progress, hospital staff decided to restrict **Mrs. Lobatos'** visits to regular visiting hours. Reports indicated that **Mr. Lobatos** then demonstrated a dramatic improvement in his appetite, began moving unassisted and feeding himself, and was socializing with other patients. He was discharged on April 2, 2010, eleven days after he was admitted. He reported feeling "much, much better" and was looking forward to seeing his children.

16. After **Martin Lobatos** was discharged from the hospital, in-home health care was prescribed and a Certified Nursing Assistant (CNA), Jesse Synder, was hired to assist **Belen Lobatos** in providing care for **Mr. Lobatos**. That same month, **Mr. Lobatos'** workers' compensation attorney told Pinnacol that **Belen Lobatos**, who is not a CNA, should be appointed as the sole health care provider in the home. After initially opposing such an arrangement, Pinnacol eventually agreed that **Belen Lobatos** would be the only person to provide in-home care for her husband. Pinnacol sent payment checks to **Belen Lobatos'** home address at 2200 Fairplay Street, in Aurora, Colorado. She was paid at the rate of approximately \$4,000.00 per month. The first payment was sent in September, 2010, in the amount of \$17,536.41, retroactive to April, 2010.

17. **Belen Lobatos** reported that just two days after leaving the hospital, **Martin Lobatos** regressed to the same catatonic condition he was in before being admitted.

18. Over the next year, **Martin and Belen Lobatos** attended dozens of medical appointments with different physicians. At each of these appointments **Martin and Belen Lobatos** each made numerous false statements and representations about **Mr. Lobatos'** physical condition and abilities and about his mental state and cognitive abilities. In addition, **Belen Lobatos** repeatedly rejected recommendations made by physicians treating **Mr. Lobatos** that, because it was so successful in the past, **Mr. Lobatos** should be admitted to a hospital again. She indicated that it was not dignified and felt that hospital staff had not changed **Mr. Lobatos'** diaper properly during his first stay.

19. Surveillance conducted on multiple dates, beginning on February 25, 2011, revealed **Martin Lobatos** driving a vehicle on several occasions, walking and moving about freely in public, conversing with different individuals and generally appearing normal. Between February 25, 20011 and March 9, 2011, **Martin Lobatos** was seen at a transmission repair shop, a ranch supply store, a Wal-Mart, a western wear store, a food store, a restaurant, a church and in his back yard overseeing the construction of a shed. A neighbor reported seeing **Belen Lobatos** on several occasions driving away from the home with **Martin Lobatos** hiding in the back seat.

20. Just two days after the surveillance event on March 9, 2011, **Mr. and Mrs. Lobatos** attended an appointment with Dr. Kenneth Krause. **Mr. Lobatos** was reported as being non-verbal and immobile. **Belen Lobatos** stated that she continues to have to bathe her husband, and has to sit him on the toilet whenever there is a need. Dr. Krause reported no change in **Martin Lobatos'** catatonia.

21. On March 14, 2011, **Martin and Belen Lobatos** attended an appointment with Dr. Stephen Moe. **Belen Lobatos** stated that her husband's condition had not changed. **Martin Lobatos'** again presented as suffering from catatonia. At the conclusion of the medical appointment, an investigator with the Attorney General's Office met with **Martin and Belen Lobatos** in Dr. Moe's office. Despite attempts to communicate with **Mr. Lobatos**, he persisted in acting as if he was suffering from catatonia. **Belen Lobatos**, when asked about her husband's condition, maintained that there had been no change. When shown the video surveillance results, **Belen Lobatos** admitted lying to doctors but stated that her husband has "good" days in which he can do normal activities, along with bad days where he is immobile and catatonic. **Belen Lobatos** was unable to explain why this information had not been told to any medical providers treating her husband, including Dr. Moe, who they had just seen and who specifically asked **Belen Lobatos** if Mr. Lobatos ever experienced any positive changes with the catatonia.

22. Between October 21, 2009 and May 16, 2011, **Martin Lobatos** received more than \$20,000.00 in TTD payments and more than \$20,000.00 in medical benefits from Pinnacol Assurance as a result of numerous false statements and representations made by him and **Belen Lobatos** to medical providers. Between September 24, 2010 and May 10, 2011, **Martin and Belen Lobatos** received more than \$20,000.00 for in-home nursing care payments from Pinnacol Assurance as a result of their false statements and representations made during the course of **Mr. Lobatos'** workers' compensation claim.

COUNT NUMBER FOUR
False Statement, §8-43-402, C.R.S. (F-5)

On or about October 21, 2009, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Edwin Healy for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER FIVE
False Statement, §8-43-402, C.R.S. (F-5)

On or about December 3, 2009, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Lee White, MA for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER SIX
False Statement, §8-43-402, C.R.S. (F-5)

On or about December 10, 2009, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Tashof Bernton for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER SEVEN
False Statement, §8-43-402, C.R.S. (F-5)

On or about December 28, 2009, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Jonathan Sollender for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER EIGHT
False Statement, §8-43-402, C.R.S. (F-5)

On or about and between January 26, 2010 and March 29, 2011, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Caroline Gellrick for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER NINE
False Statement, §8-43-402, C.R.S. (F-5)

On or about February 9, 2010, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Barton Goldmann for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER TEN
False Statement, §8-43-402, C.R.S. (F-5)

On or about and between February 12, 2010 and March 31, 2011, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Walter Torres for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER ELEVEN
False Statement, §8-43-402, C.R.S. (F-5)

On or about and between June 15, 2010 and March 14, 2011, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Stephen Moe for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER TWELVE
False Statement, §8-43-402, C.R.S. (F-5)

On or about and between February 16, 2010 and May 5, 2011, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Kenneth Krause for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER THIRTEEN
False Statement, §8-43-402, C.R.S. (F-5)

On or about February 22, 2010 and March 5, 2010, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Alan Lipkin for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER FOURTEEN
False Statement, §8-43-402, C.R.S. (F-5)

On or about and between March 22, 2010 and April 2, 2010, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Claudia Clopton, Dr. Gregory Zoller and Dr. Kathleen O'Shea, for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER FIFTEEN
False Statement, §8-43-402, C.R.S. (F-5)

On or about and between April 28, 2010 and July 28, 2010, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Jesse Snyder, CNA, for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

COUNT NUMBER SIXTEEN
False Statement, §8-43-402, C.R.S. (F-5)

On or about June 10, 2010 and June 24, 2010, **Martin Lobatos and Belen Lobatos**, in the State of Colorado, did unlawfully, feloniously, and willfully make material false statements and representations to Dr. Frank Guerra for the purpose of obtaining an order, benefit, award, compensation and payment under the Workers' Compensation Act of Colorado for self gain and for the benefit of any other person, in violation of §8-43-402, C.R.S. as amended, FALSE STATEMENT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-5)

The offenses alleged in Counts Four through Sixteen were committed in the following manner:

1. The information contained in the offense descriptions relating to Counts One, Two and Three is incorporated by reference.

2. Between October 21, 2009 and May of 2011, **Martin Lobatos** met with each the medical providers named in Counts Four through Sixteen. **Martin Lobatos** met with most of the providers on multiple occasions. Each time **Martin Lobatos** met with a medical provider during the stated time period, his wife, **Belen Lobatos**, was present.

3. During the medical appointments between October of 2009 and March of 2010, both **Martin Lobatos** and **Belen Lobatos** made false statements regarding **Martin Lobatos'** physical condition, pain level, physical abilities, psychiatric condition and emotional state. **Martin Lobatos**, during the same time period, manifested physical, mental and cognitive behaviors that were false representations of his actual condition.

4. During his hospital stay in March and April of 2010, **Martin and Belen Lobatos** made false statements regarding **Martin Lobatos'** physical condition and abilities, and **Martin Lobatos** manifested physical, mental and cognitive behaviors that falsely represented his actual physical and mental condition.

5. Beginning in March of 2010, and lasting until May of 2011, **Martin Lobatos** ceased verbal communication with all medical providers. Physicians repeatedly attempted to communicate with him but received no response. During this time, **Martin Lobatos** exhibited false and misleading physical and mental behaviors whenever in the presence of a medical provider, including CNA Jesse Synder. These false representations led these providers to believe that **Mr. Lobatos** was suffering from the medically diagnosed condition catatonia, caused by his work-related injury.

6. Between March of 2010 and March of 2011, **Belen Lobatos** attended every medical appointment along with her husband. Because **Mr. Lobatos** pretended to be incapable of communicating with any medical provider, **Belen Lobatos** assumed the position of explaining to whoever was evaluating or treating **Mr. Lobatos** what was happening. **Belen Lobatos**, at each opportunity during the relevant dates, made false statements concerning one or more of the following: her husband's daily behaviors; his physical condition and abilities; his pain experiences; his mental and emotional condition; and his cognitive abilities. In addition, **Belen Lobatos** made false statements to Dr. Walter Torres about being the only person who could properly care for **Mr. Lobatos**, resulting in medical recommendations that caused Pinnacol to agree that **Mrs. Lobatos** would be a paid, full-time care giver to **Mr. Lobatos**, when, in fact, **Mr. Lobatos** was not in need of such care.

7. Dr. Caroline Gellrick, Dr. Walter Torres and Dr. Stephen Moe, after viewing surveillance video, all commented that **Martin and Belen Lobatos** had been dishonest in their statements and representations concerning **Mr. Lobatos'** condition. Dr. Moe's stated medical opinion was that **Martin Lobatos** was not suffering from catatonia, but was, in fact, malingering, by falsely exhibiting symptoms of that disease.

COUNT NUMBER SEVENTEEN

Conspiracy to Commit Theft, §18-4-401(1)(a) and (b) and 2(d); §18-2-201, C.R.S. (F-4)

On or about and between October 21, 2009, and May 13, 2011, **Martin Lobatos**, with the intent to promote or facilitate the commission of the crime of theft, unlawfully and feloniously agreed with **Belen Lobatos** and a person or persons unknown to the Attorney General that one or more of them would engage in conduct which constituted that crime or an attempt to commit that crime, or agreed to aid the other person or persons in the planning or commission or attempted commission of that crime, and an overt act in pursuance of the conspiracy was committed by one or more of the conspirators; in violation of §18-4-401(1)(a) and (b) and (2)(d); §18-2-201, C.R.S. as amended, CONSPIRACY TO COMMIT THEFT, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F-4)

The crimes alleged in Count Seventeen occurred in a manner previously described in the factual summaries for Counts One through Three and Four through Sixteen.

COUNT NUMBER EIGHTEEN

Attempt To Influence A Public Servant, § 18-8-306, C.R.S (F-4)

On or about May 31, 2011, in the State of Colorado, Belen Lobatos unlawfully and feloniously attempted to influence Matt Grady, Pinnacol Assurance Claims Representative, a public servant, by means of deceit, with the intent thereby to alter or affect the public servant's decision, opinion, or action concerning a matter which was to be considered or performed by the public servant or the agency or body of which the public servant was a member; in violation of section 18-8-306, C.R.S., as amended, Attempt to Influence a Public Servant, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F4)

The offenses alleged in Count Eighteen were committed in the following manner:

1. **Martin Lobatos'** workers' compensation insurance benefits were terminated on May 13, 2011; however, at this writing, the insurance claim remains open. Since May 13th, Pinnacol has not provided or paid any benefits to **Mr. Lobatos** or **Belen Lobatos**. The claim is scheduled to close on approximately June 13, 2011. **Belen Lobatos** was informed of her right to challenge the decision to close the claim by Pinnacol Claims Representative Matt Grady.

2. Matt Grady is an employee of Pinnacol Assurance, which is a political subdivision of the State of Colorado. Mr. Grady regularly communicates with injured workers and/or family members prior to making decisions on matters affecting workers' compensation claims, including issues affecting eligibility, claim benefits and claim status.

3. **Belen Lobatos** contacted Mr. Grady on May 31, 2011. **Belen Lobatos** told Mr. Grady that **Martin Lobatos** had improved but had not "recuperated." She said that he is "still not good," and needs to see a doctor. She said that she was looking for an attorney and was not going to agree to close the claim. She said that Pinnacol was denying her husband future treatment and that she and **Martin Lobatos** had to agree in order for the claim to close.